

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**UPRIGHT LAW LLC, et al.,**  
**Appellants,**

**vs.**

**NANCY GARGULA, United States Trustee,**  
**Appellee.**

**Lead Case No. 20-cv-1006 (SPM)<sup>1</sup>**

**UNITED STATES TRUSTEE'S MOTION TO STAY BRIEFING**

Nancy Gargula, United States Trustee for Region 10 ("United States Trustee"), respectfully requests that the Court stay the briefing of the Appellants' proposed consolidated appeal, which is currently scheduled to commence on November 5, 2020, until the Court determines whether the Appellants' proposed interlocutory appeal may proceed. Good cause exists to grant this motion.

1. In these 35 consolidated cases, the Appellants seek interlocutory review of the bankruptcy court's minute entries concerning the motions UpRight Law LLC and each of the debtors

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<sup>1</sup> Pursuant to the Order Consolidating Cases entered on October 14, 2020, the following cases have been consolidated: *UpRight Law, et al. v. Gargula*, 20-cv-1006-SPM; *Brucker, et al. v. Gargula*, 20-cv-1007-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1008-SPM; *Burns, et al. v. Gargula*, 20-cv-1009-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1010-SPM; *McClatchery, et al. v. Gargula*, 20-cv-1012-SPM; *Wise, et al. v. Gargula*, 20-cv-1013-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1015-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1016-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1017-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1018-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1019-SPM; *Dennis, et al. v. Gargula*, 20-cv-1020-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1021-SPM; *Schnack, et al. v. Gargula*, 20-cv-1022-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1023-SPM; *Miller, et al. v. Gargula*, 20-cv-1024-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1025-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1026-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1027-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1028-SPM; *Beckemeyer, et al. v. Gargula*, 20-cv-1029-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1030-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1031-SPM; *Curry, et al. v. Gargula*, 20-cv-1032-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1033-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1034-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1035-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1036-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1037-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1038-SPM; *Turner, et al. v. Gargula*, 20-cv-1039-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1040-SPM; *UpRight Law, et al. v. Gargula*, 20-cv-1041-SPM; *Potter, et al. v. Gargula*, 20-cv-1042-SPM.

filed to close the debtors' chapter 7 bankruptcy cases (the "Minute Entries"). The Minute Entries state in relevant part:

Case is called for hearing on the United States Trustee's Objections to the debtor's Motion to Close Case and [UpRight's] Motion to Close Case. Pursuant to the statements made in open court, the Objections are Sustained and the Motions to Close Case are Denied. Order to enter.

*See* Appendix to United States Trustee's Opposition to Appellants' Motion for Leave to Pursue Interlocutory Appeal, Dkt. No. 8-1, at 1. They also include the following notice:

NOTE: THESE WRITTEN MINUTES ARE A CLERICAL ENTRY OF THE COURT PROCEEDINGS FOR RECORD KEEPING PURPOSES ONLY. THEY ARE NOT AND SHOULD NOT BE CONSTRUED AS THE ORDER OF THE COURT, WHICH WAS ORALLY DELIVERED. CONSULT THE TRANSCRIPT OF THE PROCEEDINGS FOR THE ACTUAL ORDER.

*Id.* At the close of the hearing, the judge stated: "I've denied all of the motions to close case. A written order [will] issue on each of those cases, and we'll get those out as fast as we can, all 40 of them." *Id.* at 120. The bankruptcy court issued a written opinion and interlocutory orders denying the motions to close on October 30, 2020.

2. Along with their notices of appeal, the Appellants filed a Brief in Support of Appeal or Bankruptcy Court Order Denying Motion to Close Case, or, In the Alternative, Motion for Leave to Pursue Interlocutory Appeal (the "Leave Motion").

3. The United States Trustee filed her opposition to the Leave Motion on October 29, 2020 ("United States Trustee's Opposition"). *See* Dkt. No. 8. In her opposition, the United States Trustee set forth the reasons why the proposed appeals should not proceed. As an initial matter, the Court lacks jurisdiction to consider Appellants' proposed appeal of the Minute Entries. *See* United States Trustee's Opposition at 7-9. To the extent the Minute Entries could be

considered orders of the bankruptcy court, they are interlocutory and do not satisfy the criteria for the Court to consider them. *Id.* at 10-20.

4. The United States Trustee respectfully submits that it would be premature and an inefficient use of the Court's and the parties' resources to commence the briefing of this appeal before the Court determines the threshold issue of whether it will even proceed or whether it will be dismissed. Therefore, the United States Trustee requests that briefing of the proposed appeal be stayed until the Court decides the Leave Motion.

5. Counsel for the United States Trustee contacted the Appellants' counsel the morning of October 30, 2020, to confer with counsel concerning this motion. In light of the current November 5, 2020 deadline for Appellants' brief, she requested that Appellants' counsel advise whether the Appellants consent to the requested stay. As of the time of this filing, Appellants' counsel has not advised whether the Appellants consent to the requested stay. To the extent the Court does not wish to stay the Appellants' November 5 deadline to file their brief since the Appellants have not yet determined whether they consent to stay that deadline, the United States Trustee respectfully requests that the deadline to file her appellate brief, should leave to appeal be granted, be stayed until 30 days after the Court enters its order on the Leave Motion.

6. For good cause shown, the United States Trustee respectfully requests that the Court grant this motion and stay briefing of the proposed consolidated appeal until it decides the Leave

Motion or, alternatively, that the United States Trustee's deadline to file her brief be 30 days after the Court enters its order on the Leave Motion.

Dated: November 2, 2020

Respectfully submitted,

NANCY J. GARGULA  
United States Trustee

By: /s/ Ellen L. Triebold

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**CERTIFICATE OF SERVICE**

I hereby certify that service of the foregoing was sent electronically via the Clerk's ECF System this 2<sup>nd</sup> day of November to all Counsel of record, including the following:

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